

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c)

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In Re:

Roberto Lo Sia
Felicitas Lerma Sia

Debtors

Case No.: 10-41873 (NLW)
Chapter: 13
Judge: Hon. Novalyn L. Winfield

Roberto Lo Sia
Felicitas Lerma Sia

Plaintiff

vs.

BAC Home Loans Servicing

Defendant

Adv. Pro. No: 11-01436

Hearing Date: December 17, 2012
Hearing Time: 2:00 p.m.

PLAINTIFF'S MOTION TO STRIKE MOTIONS IN LIMINE

Roberto Lo Sia and Felicitas Lerma Sia, the Plaintiff herein (the "Debtors" or "Plaintiff"), hereby move pursuant to Rules 103 of the Federal Rules of Evidence, Rules 9014 of the Federal Rules of Bankruptcy Procedure, and Rule 9013-1 of the Local Rules of the United States Bankruptcy District of New Jersey to strike both of the Defendant's Motions in Limine,

docket numbers 48 and 49. (the “Motions in Limine”). The Plaintiff moves to strike the Motions in Limine because they are untimely attempts to raise arguments that should have been raised in the Defendant’s Response to Motion For Summary Judgment (“Response”) filed on November 13, 2012 (the “Response Date”). Rather than raise such issues timely, the Defendant waited an additional twenty-four days to raise these issues and filed the Motions in Limine on the last business day before the Court has indicated reply papers are due. Thus the Plaintiff does not have a reasonable time to respond to the new points that the Defendant raises.

All of the documents and all of the points that the Defendant wishes to contest were on file with the Court no later than October 26, 2012 -- nearly six weeks ago and nearly three weeks before the Response Date. The Defendant is represented by one of the largest law firms in the world. The Defendant had ample time to make its various points in the Response. The only piece of information addressed in either of the Motions in Limine that was not available to the Defendant in October was the number of times that the Plaintiff’s expert witness has been certified as an expert. Otherwise, every other fact, statement, document, and argument of which the Defendant complains has been known since October and could have been addressed in the Defendant’s Response on November 13, 2012. By inexplicably waiting three more weeks and filing the Motions in Limine on the last business day before reply papers are due, the Defendant deprived the Plaintiff of an appropriate period in which to respond.

WHEREFORE the Plaintiff requests that the Court strike the Motions in Limine.

Dated this the 10th day of December, 2012.

/s/ Andy Winchell
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